IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 31ST MAY 2007 / 10TH JYAISHTA 1929

WP(C).No. 31432 of 2006(P)

PETITIONERS:
----

1. M.H.SADIQUE HUSSAIN, EXTENSION OFFICER (HOUSING) GRADE II, CHERPU BLOCK, THRISSUR DISTRICT.

2. E.VISWANATHAN, VILLAGE EXTENSION OFFICER, CHERPU BLOCK, THRISSUR DISTRICT.

BY ADV. SRI.K.JAJU BABU
SMT.M.U.VIJAYALAKSHMI

RESPONDENTS:
----

1. STATE OF KERALA, REPRESENTED BY SECRETARY TO GOVERNMENT, RURAL DEVELOPMENT DEPARTMENT, GOVT. SECRETARIAT, TRIVANDRUM.

2. THE RURAL DEVELOPMENT COMMISSIONER, TRIVANDRUM.

3. THE SENIOR ADMINISTRATIVE OFFICER, COMMISSIONERATE OF RURAL DEVELOPMENT, TRIVANDRUM.

4. SHRI.N.V.DEVADAS, JUNIOR CO-OPERATIVE INSPECTOR, OFFICE OF THE JOINT REGISTRAR (AUDIT), THRISSUR.

BY ADV. SRI.N.NAGARESH --- R4
SRI.BINU PAUL
GOVERNMENT PLEADER SRI. P. NANDAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 31/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 31432/2006 P

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE RELEVANT EXTRACT OF ORDER DT. 11/08/2000 ISSUED by the ADDL. REGISTRAR OF CO-OP SOCIETIES.

EXT.P2. COPY OF THE RELEVANT EXTRACT OF FINAL SENIORITY LIST VIDE ORDER DT. 14/2/2003 BY R2.

EXT.P3. COPY OF THE RELEVANT EXTRACT OF ORDER DT. 22/08/03 BY THE ADDL. REGISTRAR (GENERAL).

EXT.P4. COPY OF THE ORDER NO. ESTT. B2/1891/96/CRD DT. 19/1/96 BY THE R3.

EXT.P5. COPY OF THE REPRESENTATION BY P2 AND OTHERS BEFORE THE R2 DT. 11/10/2006.

EXT.P6. COPY OF THE ORDER NO. 22062/ESTT/B3/06/CRD DT. 10/11/06 BY THE R3.

RESPONDENT'S EXHIBITS

EXT.R4A. COPY OF THE ORDER NO. ESTT. B3/885/2005/CRD DT. 27/6/2005 OF THE ADDL. DEVELOPMENT COMMISSIONER.

EXT.R4B. COPY OF THE ORDER NO. 885/ESTT. B3/2005/CRD DT. 22/12/2005 OF THE ADDL. DEVELOPMENT COMMISSIONER.

EXT.R4C. COPY OF THE ORDER NO. 448/ESTT. B3/2006/CRD DT. 15/09/2006 BY THE SR. ADMINISTRATIVE OFFICER.

True copy

tga

K.BALAKRISHNAN NAIR, J.

W.P.(C) NO. 31432 OF 2006-P

JUDGMENT

The petitioners are Extension Officers in the Department of Rural Development. The 4th respondent was Village Extension Officer Grade II in the said Department. While so, he was appointed by transfer in the Co-operative Department as Junior Co-operative Inspector, by Ext.P1 order dated 11.8.2000. According to the petitioners, the 4th respondent, thereafter, has no claim for being posted in the Rural Development Department. While so, when transfers and postings were made in the Department, the 3rd respondent by Ext.P6 order dated 10.11.2006, posted the 4th respondent as General Extension Officer at Pandalam. The relevant portion of the order reads as follows:

> "Sri.N.Devadas, Co-operative Inspector on reversion from Co-operative Department is permitted to rejoin duty in Rural Development Department and is posted as GEO, Pandalam."

The petitioners attack this order as illegal and unsustainable.

2. The 4th respondent has filed a counter affidavit, supporting the impugned order. According to him, several of his juniors have been so

posted, as was done under Ext.P6 and therefore, there is no justification to attack his appointment alone.

3. I heard the learned Government Pleader for respondents 1 to 3 also. When the appointing authority appoints a person substantively to a cadre, there must be a proper appointment order. In this case, as part of ordering transfers and postings, the 4th respondent has been given a posting and that too, to a higher post. I think, there is procedural impropriety in posting the 4th respondent under Ext.P6. Therefore, it is liable to be quashed. But, I think, the 4th respondent shall not be prejudiced by the improper proceedings issued by the 3rd respondent. The 4th respondent's claim was pending before the 2nd respondent for posting him back to the Rural Development Department. He has got a right to have the same considered in accordance with law. In view of the above position, Ext.P6 to the extent it gives a posting to the 4th respondent is quashed. The 2nd respondent shall consider his claim for posting back to the Rural Development Department, with effect from the date he is eligible for the same. The orders in this regard shall be passed by the 2nd respondent within one month from the date of receipt of a copy of this judgment. It is clarified that if he is given posting to his parent department, its retrospectivity shall

not be earlier than the date of Ext.P6.

The Writ Petition is disposed of as above.

31st May, 2007. K.BALAKRISHNAN NAIR, JUDGE.

Nm/